



P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

AGENDA

TELECONFERENCE MEETING

TUESDAY, MAY 3, 2005

1:00 P.M.

METCALF BUILDING, CONFERENCE ROOM 111

1520 EAST SIXTH AVENUE, HELENA, MONTANA

NOTE: It is expected that most or all available Board members will be participating via teleconference. The Board attorney and secretary will be present at the location stated above. Interested persons, members of the public, and the media are welcome to attend at the location stated above. Members of the public and press also may join any of the Board members with prior arrangement. Contact information for the Board members is available from the Board secretary at (406) 444-2544 or at <http://www.deq.mt.gov/ber/index.asp>. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone or by e-mail at jwittenberg@mt.gov no later than 24 hours prior to the meeting to advise her of the nature of the accommodation you need.

I. Action Agenda Item: Action on Appeal

In the matter of Air Quality Permit No. 3185-02 granted to Rocky Mountain Power, Inc. for the Hardin Generation Project (BER 2005-02 AQ, BER 2005-03 AQ, BER 2005-04 AQ). The purpose of the meeting is to consider whether to approve the Settlement Agreement submitted by the parties in these consolidated contested cases and to take action consistent with the Settlement Agreement. A proposed order will be considered by the Board. The Board may also consider a stipulation to dismiss certain claims.

Background Information: The Board received three appeals of the air quality permit for a coal-fired electric generating plant. Case No. 2005-02 AQ is the appeal filed by Montana Environmental Information Center (MEIC). The MEIC appeal raises issues about mercury emissions and impacts on visibility within Federal Class I areas. Case No. 2005-03 AQ is the appeal by William J. Eggers III, Margaret Eggers, and Tracy Small. Their appeal raises issues about air quality modeling and emissions of particulate matter and mercury. Case No. 2005-04 AQ is the appeal by Rocky Mountain Power, Inc. Its appeal raises issues about the emission limitations for mercury, particulate matter, and SO₂. At the public meeting on January 28, 2005, the Board decided to hear these cases at not more than two days of hearing. Tom Bowe was appointed Hearing Examiner to manage the cases until the hearing. On January 31, 2005, Bowe issued the Second Prehearing Order, which consolidated the three appeals. At the Board meeting on April 1, 2005, the Board dismissed Tribal Sovereignty Claims, MEPA Claims and Constitutional Claims, in accordance with a stipulation of the parties. The Board scheduled the hearing for two days, beginning on Wednesday, July 27, 2005. The Board set the Board meeting on June 3, 2005, as the date for hearing argument on any pending

motions. These included Rocky Mountain Power's Motion for Partial Summary Judgment, and motions that DEQ and MEIC indicated that they may file. On April 4, 2005, Bowe issued the Fifth Prehearing Order, which set the complete schedule for the contested case. On April 11, 2005, the Board received a Second Stipulation to Dismiss Certain Claims of the Eggers/Small Petitioners and a proposed Order Dismissing MACT and New Source Performance Standards Claims. However, on April 15, 2005, the Board received the Joint Motion of the Parties to Approve a Settlement Agreement and Dismiss All Proceedings with Prejudice. On April 15, 2005, Bowe issued the Stay Order, which stayed all pending deadlines in the contested cases and recommended that a special Board meeting be held to consider approval of the Settlement Agreement.

II. General Public Comment

Under this item, members of the public may comment on any public matter within the jurisdiction of the Board that is not otherwise on the agenda of the meeting. Individual contested case proceedings are not public matters on which the public may comment.

III. Adjournment